Supreme Court, U.S.
FILED

No. 10-998

FEB 2 - 2011

OFFICE OF THE CLERK

In The
Supreme Court of the United States

ROSE COLOMBO,

Petitioner,

v.

COUNTY OF SUFFOLK,

Respondent.

On Petition For A Writ Of Certiorari
To The Second Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

ROSE COLOMBO
1706 Alderwood Lane
Port Jefferson Station, NY 11776
(631) 828-8284

QUESTIONS PRESENTED

1. Was it a violation of the Plaintiff's rights to deny her a trial by jury and force her to accept a plea?

2. Should Hon. Michael F..Mullen have confirmed that Plaintiff was provided the psychiatric help which she needed?

3. Should Rose Colombo have been allowed to face her accusers?

4. Did the U.S. Court of Appeals violate Fed. R. Civ. P. 15 (a)(2) by refusing to allow the Plaintiff a chance to make corrections to her brief after a clerk in the Court of Appeals provided incorrect information on how to proceed?

LIST OF PARTIES

Pursuant to Rule 14.1(b), Petitioner states that the following parties have appeared in the Second Circuit Court of Appeals in this matter:

Rose Colombo (Petitioner/Appellant)
County of Suffolk (Respondent/Appellee)
No notice of appearance

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, Rose Colombo, prays that a Writ of Certiorari is issued to review the judgment of the U.S. Court of Appeals for the Second Circuit.

OPINIONS BELOW

On February 24, 2010, Hon. Sandra J. Feuerstein affirmed Colombo's conviction and sentence. Judgment dated March 2, 2010. Order dated May 25, 2010. Order dated August 12, 2010. Order affirmed by the U.S. Court of Appeals on September 23, 2010.

STATEMENT OF JURISDICTION

Hon. Sandra J. Feuerstein denied Plaintiff's application on February 24, 2010, March 2, 2010 and May 25, 2010. The U.S. Court of Appeals affirmed on August 12, 2010 and September 23, 2010. This Court has jurisdiction pursuant to 28 U.S.C. § 1254 (1) to review the circuit court's decision on a Writ of Certiorari.

CONSTITUTIONAL PROVISIONS INVOLVED

The Constitutional provisions at issue are the Fifth and Sixth Amendments to the United States Constitution. *See* U.S. Const. Amend. V ("No person shall be ...deprived of life, liberty, or property without due process of law."); U.S. Const. Amend. VI ("the accused shall enjoy the right to a ...public trial, by an impartial jury of the State"). This Court has jurisdiction.

STATEMENT OF THE CASE

Plaintiff has experienced a custom and a policy of civil rights violations and gender discrimination in the County of Suffolk while those guilty were acting under color of state and federal laws. My life was being threatened by Cesar A. Malaga and the County of Suffolk was doing absolutely nothing to protect me. In addition, the Unified Court System of Suffolk County was refusing to grant me a divorce from this extremely abusive man who forced me to marry him when I was a teenager so that he could obtain his green card. What he did was not only a violation of my rights, but a violation of the rights of the people of the United States of America.

When he received his green card in March of 1961 he abandoned me while I was pregnant with his child and joined the U.S. Army. He then tried to get the army to block me and his child from receiving financial and medical benefits. I am a Roman Catholic and we were married in the Roman Catholic Church, so divorce was not an option.

Cesar A. Malaga returned from the army in 1964 as penniless as he was when he entered the army. The only reason he returned to me was because I had bought and paid for four (4) plots of land in Cape May Courthouse, New Jersey and I saved enough money to put a down payment on a two-family home. We were living rent-free as a result of my investments.

I was working at the United States Postal Service (U.S.P.S.) at the time of my arrest and my supervisors were viciously and sadistically harassing me because I was injured on the job when the top gate of a 240-pound defective post-con fell on me causing a concussion and other serious head injuries. I was informed by my supervisor that I would be fired from my job if I reported the accident. Even though there was a nurse on duty as the time, no medical attention was provided to me.

Two employees who witnessed the accident took me to the break room and made an ice pack to put on the huge lumps which quickly appeared on my forehead. While all of this harassment was going on at work, the Unified Court System of Suffolk County was still refusing to grant me a divorce and my life was constantly being threatened by Cesar A. Malaga. I also had to take out an order of protection against my own son.

The U.S.P.S. did not want a disabled person working for them. As a result of my injuries I suffered a complete mental breakdown in 1989 prior to my arrest. Everyone in the Unified Court System of Suffolk County was aware of this, yet no psychiatric assistance or medication was provided.

After my arrest the County of Suffolk conspired with Postal Inspector Hayes and Robert Green to obtain a conviction against me. Slanderous statements were made about me in the chambers of Hon. Michael F. Mullen so that the Postal Service would have grounds to fire me from my job. I was never allowed to respond to any of these slanderous statements.

The U.S.P.S. is guilty of OWCP fraud; retaliation against a disabled employee to avoid paying Workers' Compensation; workplace safety issues; age, gender and disability discrimination; inappropriate conduct for a Postal Inspector; whistleblower reprisal; conspiracy to violate a disabled employee's rights and a conflict of interest involving a criminal case.

On Page #1 of Hon. Sandra J. Feuerstein's Order dated May 25, 2010 she states in footnote #1, "Although Plaintiff applies for the appointment of a 'special prosecutor', upon review of her application, it is clear that she seeks the appointment of pro bono counsel to represent her in this case." This is incorrect. I requested a special prosecutor because I have experienced a custom and a policy of civil rights violations and gender discrimination while those guilty, including judges, were acting under color of state and federal laws. Marty Tankleff was able to obtain a special prosecutor after an extremely lengthy battle regarding corruption in Suffolk County, and I, too, should have received a special prosecutor. People working for the County of Suffolk falsely testified against Marty Tankleff and against me. Marty lived about a mile from where I presently live and the corruption which exists in Suffolk County has been well-documented.

Hon. Sandra J. Feuerstein uses my words combined with false statements made by the County of Suffolk and fabricates an account of what conspired. On Page #2 she states that I used "an iron bar" to break eleven (11) car windows. This is not true. The court officers found a section of an awning which was in my car because I was taking it to be repaired. The County of Suffolk had no right to question a disabled person without her attorney present.

Judge Feuerstein goes on to state "Plaintiff claims that she was coerced into accepting a plea and that she was denied a speedy trial." She doesn't mention that I was on a hunger strike for seventeen (17) days at the Suffolk County Correctional Facility in protest of corruption in the County of Suffolk. I had no legal representation this entire time. My attorney, Robert Green, was not at my arraignment and he refused to accept my phone calls or respond to my letters. I understand how frustrated he was as this was my third attempt to obtain a divorce. But, what he did was illegal.

Hon. Sandra J. Feuerstein mentioned briefly in her Order dated May 25, 2010 the corruption I experienced in the Town of Babylon HUD Home improvement Program. I won this case. *See* Rose Colombo v. Cavasinni and Celano Construction Corporation, BASC 1766-97 B. This case was fully favorable to the Plaintiff and the case finally concluded in 2004.

Judge Feuerstein also mentions in the footnotes of this order the case involving Rose Colombo v. Hope For Youth, Inc. This was an age discrimination lawsuit which was fully favorable to the Plaintiff. Also fully favorable was my disability benefits and supplemental security benefits which were received in 2001.

In 2001 Hon. Paul J. Baisley, Jr. ordered that Dr. Michael Schwartz of Stony Brook University Hospital perform a psychiatric evaluation on me. The purpose of this evaluation was to cover up many years of civil rights violations and gender discrimination which Plaintiff experienced in the County of Suffolk. Judge Baisley further violated the law by refusing to allow the Plaintiff to subpoena Dr. Schwartz to protect her rights. *See* Rose Colombo v. Dr. Michael Schwartz, et al.

I am invoking 42 U.S.C. § 1983. I should be receiving Workers' Compensation from the U.S.P.S. as a result of the injuries I received on the job. Dr. Schwartz was also attempting to cover this up. By doing this he not only violates my rights, but the rights of the taxpayers of Suffolk County and the rights of the people of the state of New York as they are the ones supporting me. This also involves age discrimination as I was 47 years of age at the time.

Contrary to what Hon. Sandra J. Feuerstein has stated, regarding the case of Rose Colombo v. Suffolk County Department of Social Services, et al., the Plaintiff *did not* have a full jury. I was also refused an attorney to represent me, I was denied documents which under law were required to be provided, I was constantly being stonewalled and much, much more. The County of Suffolk also refused to allow me to subpoena Police Officer Christopher Talt who sexually harassed me in the police station. He did this by taking off his shirt, his

bullet proof vest, and unzipped his pants while smiling directly at me in a sexually intimidating manner. Sexual harassment by members of the Suffolk County Police Department is completely out of control. A special prosecutor will be able to put an end to such abuses. In addition, I went into diabetic shock during the trial and no medical assistance was provided to me.

Hon. Sandra J. Feuerstein stated that I appealed my conviction and sentence to the Appellate Division. This is not true. It was the Legal Aid Society of Suffolk County who appealed. These are the same people who prosecuted me. I believe that they did this for their own benefit, not mine. The same thing happened to me when I was falsely arrested in 1999 on trumped up charges of trespassing by the Suffolk County Department of Social Services. I went to DSS seeking emergency housing and they tried to have me placed in a psychiatric hospital. When staff at the psychiatric hospital demanded that I be provided with appropriate housing, DSS put me up for the night at the West Babylon Motor Inn. The following day they sent a taxi to have me brought back to DSS with all of my possessions. From there they had me falsely arrested on trumped up charges.

I had to sell a two-family investment property which I owned in West Babylon, New York after my husband raped one of my tenants. Her two teenage sons came to my home with a baseball bat after the attack seeking revenge. I had to call the Suffolk County Police for assistance. Prior to having the family evicted by the Suffolk County Sheriff's Department they did a tremendous amount of damage to the property in West Babylon. Cesar A. Malaga confiscated all of the assets from the sale of this property. This information was provided to Judge Abrams during my second attempt to obtain a divorce. He still refused to grant me a divorce.

I experienced the same type of corruption which Marty Tankleff experienced in 1987. District Attorney Thomas Spota viciously went after this innocent young man who was kept in jail for seventeen (17) years. Spota had a conflict of interest involving his former law firm and the Tankleff case, but that didn't stop him from going after Marty Tankleff with a vengeance.

After my arrest the County of Suffolk allowed Postal Inspector Hayes into Hon. Michael F. Mullen's chambers where false and malicious statements were made about me in order to get me fired from my job. I was never allowed to respond to these slanderous statements. This is another example of the discrimination I experienced as a direct result of my disabilities.

All of the civil rights violations and gender discrimination which I experienced involving 42 U.S.C. § 1983 started with Hon. Harry Richard Brown and continues to this day. I feel as if I am trapped in a horrible nightmare. All of my legal battles are all directly connected to my 1989 arrest, and this is directly related to getting Judge Brown's Order vacated. It is far from being frivolous, as stated by Hon. Sandra J. Feuerstein to want to protect ones rights from criminal activity. It seems that the career criminal who forced me to marry him when I was a teenager so that he could obtain his green card has more rights than I have.

Prior to my divorce I was as innocent as a new born babe. I purchased my first investment property in Cape May Courthouse, NJ at the tender age of eighteen (18) and I purchased my first two-family home at age twenty-one (21). I graduated from St. Joseph's College with a Bachelor's Degree in 1979. I became an author/publisher in 1980 when I wrote and published a children's book on the Uro Indians of Peru. I obtained my Master's Degree from St. John's University in 1988. In addition, I was a homeowner for over twenty years and I supported myself through my real estate investments. The Unified Court System of Suffolk County allowed Cesar A. Malaga to steal all of my assets, and in so doing they also allowed him to steal my pension. He is now retired from the New York Telephone Company and he supports himself with real estate investments he purchased with monies he stole from me.

This was a violation of my rights, a violation of the rights of the taxpayers of Suffolk County and a violation of the rights of the people of the state of New York as they are the ones supporting me.

I applied for a divorce in 1984 on the grounds of *cruel and inhuman treatment*, but I was coerced by Hon. Harry Richard Brown in 1985 to falsify the grounds of my divorce. I was forced to change the grounds to "constructive abandonment", which was a lie. This is the case I got vacated.

My second attempt to obtain a divorce was denied by Hon. Arthur J. Abrams to punish me for speaking up about being coerced by Hon. Harry Richard Brown. What Judge Abrams did was illegal and it was an abuse of judicial process. Such abuses by judges should be abolished.

In 1987 Cesar Malaga and his adult son, Cesar A. Malaga, II, burglarized my home and stole, among other things, copyrighted materials on a book which I wrote and published on the Uro Indians of Peru. The book is registered with the United States of America Office of Copyright Registration. It is a felony to burglarize a person's home and it is a felony to steal copyrighted materials, but the County of Suffolk and the Unified Court System of Suffolk County allowed these thieves to steal from me.

This is another example of the civil rights violations and gender discrimination which the County of Suffolk has blatantly shown towards me. It cost me over $24,000 to have this book published. Both of these men should have been prosecuted to the full extent of the law for what they did instead of rewarding them by allowing them to keep my property.

The County of Suffolk had me falsely arrested, not once, but twice. Both times I was coerced into accepting plea, both times I was denied a trial by jury, both times I was denied a speedy trial and both times the Legal Aid Society of Suffolk County appealed to the Appellate Division. They refused to allow me to appeal on my own. My life has been completely devastated by the corruption which exists in Suffolk County, my credentials have been trashed and I was banned from employment and from entering the U.S. Peace Corps. I was also completely locked out of all of the marital assets after almost thirty (30) years of marriage. All of this was done to a disabled person who is supposed to be protected under 42 U.S.C. § 1983.

Based upon information and belief, Cesar Malaga and his adult children made libelous statements about me in 1989 after my arrest. This was done so that they could gain access to my assets. I requested a trial by jury, but I was coerced into accepting a plea. I believe that this is a constitutional violation. Furthermore, I did not knowingly or intelligently waive my right to counsel. Robert Green left me in jail for 17 days. He refused to accept my phone calls and he refused to respond to my letters.

I have been seeking to subpoena the transcripts from the three-hour long interrogation in which no food or water was supplied to me. These transcripts will prove my innocence. But, the County of Suffolk refuses to allow me to purchase these transcripts.

On April 28, 2009 I was forced into bankruptcy as a result of the corruption which I experienced in the County of Suffolk. I should have received equitable distribution of the marital assets and I should be receiving Workers' Compensation.

I have been victimized by the County of Suffolk, the U.S.P.S. and by the Unified Court System of Suffolk County. As a result of the injuries I sustained on the job at the U.S.P.S. I was not capable of protecting my rights against these false charges, nor was I capable of protecting my rights during the divorce or against the U.S.P.S.

REASONS FOR GRANTING THE WRIT

Plaintiff did not knowingly and intelligently waive her right to counsel or refuse a trial by jury. This was forced on her while being disabled after being hit on the head with the top gate of a 240-pound defective post-con at the U.S.P.S. Her attorney, Robert Green, refused to appear with her at her arraignment and left her in jail for seventeen (17) days without legal representation while she was on a hunger strike in protest of corruption in Suffolk County. The U.S.P.S. was guilty of violating the Plaintiff's civil rights, gender discrimination and age discrimination as they did not want a disabled person working for them.

False testimony by Postal Inspector Hayes and other persons with a conflict of interest in seeing that I was convicted were serious violations to a defendant's right to a fair trial. The law states that a district court should be required to address it, whenever it arises during hearings before the district court.

However, Hon. Sandra J. Feuerstein wants to cover it up and further violate my rights. She describes me as a "frequent flyer" in the U.S. District Court. What I am is a woman seeking justice. All of my cases are directly linked to my 1989 false arrest.

Judge Feuerstein addresses my request for a special prosecutor in the footnotes where it can be easily overlooked. I have been requesting a special prosecutor for years as I have experienced extreme civil rights violations and gender discrimination. My husband and I had over half a million in assets at the time of our divorce. Yet, Hon. H. Patrick Leis, III, only granted me $800 per month for eight (8) months. If this is divided by 30 years it comes to $213 a year for each year that I was married. Since I experienced a conspiracy to violate my rights I am requesting a special prosecutor.

WHEREFORE, for the foregoing reasons, certiorari should be granted.

CONCLUSION

Dated: January 7, 2011

Respectfully submitted,
Rose Colombo
1706 Alderwood Lane
Port Jefferson Station, NY11776
(631) 828-8284

App. 1

United States Postal Service
Government Relations Department
475 L'Enfant Plaza, SW
Washington, DC 20260-3500

May 30, 1989

Honorable Thomas J. Downey
Member of Congress
4 Udall Road
West Islip, NY 11795-2398

Dear Congressman Downey:

This is in response to your May 15 correspondence on behalf of Ms. Rose Colombo of Babylon, concerning her Postal Service employment.

At the time that a member of my staff contacted Long Island Field Division officials on April 10, Ms. Colombo had not accepted the offer of a temporary position. She indicates in her letter that she did accept the position, apparently later on the same day. I regret any confusion which may have resulted from my statement that "Ms. Colombo had not formally accepted the position as of April 10."

Long Island Field Division Human Resources officials report that Ms. Colombo was notified that she was being assigned on May 1 to a position in a quiet environment away from the letter sorter machines, in a computer operation similar to that of her temporary position. This position is on her regular tour schedule. When this transfer back to her regular tour was announced, Ms. Colombo indicated her preference to remain on the tour to which she was temporarily assigned. The Postal Service was not and is not in a position to accommodate her preference.

A March 23 letter from her physician indicated that a CATSCAN was scheduled for Ms. Colombo on March 27. On March 29, the same physician's determination was that she was neurologically fit for duty in a quiet environment. As noted, she was given a temporary assignment to such a position, and she was subsequently assigned to a position in a quiet environment on her regular tour. Ms. Colombo then obtained another medical opinion to the effect that she should not report to work, but should stay home because of her headaches. She did so, and has not reported for work since May 1. The first physician's report indicating her fitness for duty remains a part of her personnel file.

Long Island Field Division officials report that the Postal Service has offered your constituent several alternatives in an attempt to accommodate her request for a more quiet work environment, including the proffer of a job in a similar to the one she was doing without difficulty on the temporary assignment. She has declined each alternative.

In the event Ms. Colombo has additional questions concerning this matter, we would encourage her to contact Long Island Field Division Manager of Personnel Services Andrew Moresco, at (516) 755-2858. He is in the best position to be of prompt assistance.

If I may be of further assistance to you, please let me know.

Sincerely,

/S/

Judith A. Principe
Representative
Office of Government Liaison

CAIATI, GARGUILO & GREEN
ATTORNEYS AT LAW

Emanuel J. Caiati ('27-'86)
Anthony Garguilo
Robert A. Green

74 Carleton Avenue
East Islip, NY
TEL. 516-277 4808
FAX: 516-277 6762

July 11, 1990

To Whom It May Concern:

RE: Rose Colombo
334 Livingston Avenue
Babylon, New York

Please be advised that I represented Rose Colombo with respects to a matrimonial action that was settled in Supreme Court, Suffolk County before the Hon. H. Patrick Leis, III on November 30, 1989.

Pursuant to the terms of the settlement Rose Colombo was to receive the sum of $800.00 per month beginning January 3, 1990 and terminating with a final payment on August 3, 1990. No further payments are to be made.

If anything further is necessary with respects to this matter do not hesitate to contact the undersigned at your convenience.

Very truly yours,
/S/
Robert A. Green

RAG/kmn

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PEOPLE OF THE STATE OF NEW YORK,
Plaintiff,

-against-

ORDER
10-CV-686
(SJF)(ARL)

ROSE COLOMBO,
Defendant.

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FEUERSTEIN, DISTRICT JUDGE:

I. Introduction

On February 17, 2010, pro se defendant Rose Colombo ("Defendant") filed a Notice of Removal seeking to remove a closed "criminal action brought on August 21, 1989 in County Court in Suffolk County New York" ostensibly pursuant to 28 U.S.C. § 1446 (a) and (c).

The papers annexed to Defendant's submission reflect that, on September 25, 1989, Defendant pled guilty to Criminal Mischief in the 4th Degree, a Class A Misdemeanor, in satisfaction of Indictment No. 1383-89 and was sentenced to three (3) years probation with psychiatric conditions and two-hundred eighty (280) hours of community service in lieu of incarceration. (See transcript dated September 25, 1989 on Indictment No. 1383-89 and transcript dated November 20, 1989 at pages 7-8,

annexed to the defendant's Notice of Removal). Defendant appealed her sentence and the sentence was affirmed by the Appellate Division, Second Department, by Decision and Order, dated December 24, 1990.

Defendant's Notice of Removal sets forth thirty-three (33) disjointed paragraphs purporting to recite the grounds for removal. For example, Defendant states that the "United States District Court is the proper court regarding civil rights violations involving the federal government regarding disabled employees and age," that her ex-husband "Cesar A. Malaga is a pedophile" who "is responsible for what happened to Marcelo Lucero [an Ecuadorian immigrant who was murdered in 2008]"and that she "was forced into bankruptcy as a result of the civil rights violations" she has experienced.

Defendant has also filed a request for motion for leave to proceed informa pauperis. Upon review of Defendant's submission, the motion is granted and, for the reasons that follow, the motion to remove the criminal case is denied.

II. The Removal Statute

Pursuant to 28 U.S. C. 1446, a defendant may seek to remove a pending criminal action from a state court to a federal district court by filing, within "thirty days after the arraignment in the State court or at any time before trial, whichever is earlier," a notice of removal "containing a short and plain

statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant...28 U.S.C. § 1446(a) and (c).For good cause shown at a later time. 28 U.S.C. § 1446(c)(1).

Here, the defendant seeks to remove a closed criminal prosecution over twenty (20) years after her guilty plea was entered. Upon review of the submission, the Court find no good cause to extend the deadline. Indeed, given that the underlying criminal prosecution has long concluded, there is no action to remove.

III. Conclusion

For the foregoing reasons, defendant's application to remove this case is denied and the clerk of the Court is directed to close this case. The Court certified pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore informa pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED

/S/

Sandra J. Feuerstein
United States District judge

Dated: February 24, 2010
Central Islip, New York

United States District Court
Eastern District of New York

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PEOPLE OF THE STATE OF NEW YORK

Plaintiff,

JUDGMENT

-against-

CV-10-0686
(SJF)(ARL)

ROSE COLOMBO,

Defendant.

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An Order of Honorable Sandra J. Feuerstein, United States District Judge, having been filed on February 24, 2010, denying defendant's application to remove this case, directing the Clerk of the Court to close this case, and certifying pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore denying in forma pauperis status for the purpose of any appeal, it is

ORDERED AND ADJUDGED that defendant's application to remove this case is denied; that a Certificate of appealability is denied; and that this case is hereby closed.

Dated: March 2, 2010
Central Islip, New York

ROBERT C. HEINEMANN
CLERK OF THE COURT

By: /s/ Catherine Vukovich
Deputy Clerk

United States District Court
Eastern District of New York

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ROSE COLOMBO,

Plaintiff,

-against-

ORDER
10-CV-1134
(SJF)(AKT)

COUNTY OF SUFFOLK,

Defendant.

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FEUERSTEIN, District Judge:

I. Introduction

On March 12, 2010, the pro se plaintiff Rose Colombo (Plaintiff), a frequent flier in this Court, filed a complaint together with an "Affidavit in Support of Application for the Appointment of a Special Prosecutor[1] and a Request to Proceed In Forma Pauperis." Upon review of the Plaintiff's submissions, the motion for leave to proceed in forma pauperis is granted. For the reasons that follow, the complaint is sua sponte dismissed and Plaintiff is warned against filing future actions pertaining to the 1989 criminal action. Given the dismissal of her Complaint, Plaintiff's application for the appointment of pro bono counsel is moot.

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[1]Although Plaintiff applies for the appointment of a "special prosecutor", upon review of her application, it is clear that she seeks the appointment of pro bono counsel to represent her in this case. Accordingly, the Court so construes her application.

II. The Complaint

Plaintiff's complaint, brought pursuant to 28 U.S.C. § 1331 is comprised of thirty-four (34) paragraphs chronicling the last twenty-three (23) years of Plaintiff's life and purporting to describe "a custom and a policy" of civil rights violations beginning in 1987.[2] According to the complaint, Plaintiff's home was burglarized in 1987 and the Suffolk County District Attorney "did absolutely nothing..." Plaintiff describes that, in 1989, she "committed an act of civil disobedience" by using an iron bar to break the windows on eleven (11) cars at the court complex in Hauppauge, New York. According to Plaintiff, "six court officers came at me with their guns drawn and jumped on my back, pinning me to the ground." Plaintiff asserts that she was then interrogated for over three hours without having been provided with anything to eat or drink or having received any medical attention for the cuts and abrasions she claims to have sustained during the attack by the corrections officers (sic). Plaintiff claims that she was coerced into accepting a plea and that she was denied a speedy trial.

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[2]Although Plaintiff this action allegedly invoking this Court's federal question subject matter jurisdiction against the defendant, County of Suffolk ("Defendant"), she does not specify what federal Law or statute the Defendant is alleged to have violated. Given Plaintiff's pro se status and affording the complaint a liberal construction, the Court construes that Plaintiff's complaint is brought pursuant to 28 U.S.C. § 1983.

The complaint then describes that in 1991 the Suffolk County District Attorney "again did absolutely nothing" to assist her in connection with a home improvement contractor who allegedly forged Plaintiff's signature on the certificate of completion and on two checks totaling fifteen thousand dollars ($15,000). Plaintiff then claims that in 1999 she was "falsely arrested on trumped up charges of trespassing" and that she was sexually harassed by a Suffolk County Police Officer at the police station and give "a false alias". Plaintiff also claims that, in 1999, she was brutally, sadistically and savagely attacked in jail" by three (3) corrections officers. Next, Plaintiff alleges that on June 29, 2007, Suffolk County Police Officer Patrick Looney "filled out a false police report about me from a complaint submitted by Margaret Pezzollo." Plaintiff contends that she was "forced to attend approximately five (5) fair hearings" regarding her food stamps during 2009. Finally, Plaintiff claims that, on February 24, 2010, Assistant District Attorney Thomas C. Costello deliberately made false statement to the undersigned in another lawsuit also brought by the Plaintiff, pro se, in this court, People of the State of New York v. Rose Colombo, 10-cv-687 (SJF)(ARL).[3]

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[3]This case was an attempt by Plaintiff to remove a 20-year-old closed criminal case from the state court to this court. The under-signed denied Plaintiff's motion to remove the criminal case by order dated February 24, 2010 and closed that civil case. This action followed.

III. In Forma Pauperis Application

Upon review of the declaration accompanying Plaintiff's Application, the Court find that Plaintiff's financial status qualified her to commence this action without prepayment of the filing fees. See 28 U.S.C. § 1915(a)(1). Accordingly, Plaintiff's application to Proceed in forma pauperis is granted.

IV. Application of The Prison Litigation Reform Act

The 1996 Prison Litigation Reform Act, codified at 28 U.S.C. § 1915, requires a district court to dismiss an in forma pauperis complaint if the action is frivolous or malicious; fails to state a claim on which relief may be granted; or seeks monetary relief against a defendant who is immune from such relief. See id.

It is axiomatic that the Court is also required to read the Plaintiff's pro se complaint liberally and to liberally construe a pro se plaintiff's papers "'to raise the strongest arguments that they suggest'" Soto v. Walker, 44 F. 3rd 169, 173 (2d Cir. 1995)(quoting Burgos v. Hopkins, 14 F. 3d 787, 790 (2d Cir. 1994). Moreover, at this stage of the proceedings, the Court assumes the truth of the allegations in the Complaint. Koppel v. 4987 Corp., 167 F. 3d 125, 127 (2d Cir. 1999).

V. Discussion

A. Section 1983 Claim

> Every person who, under color any statute, ordinance, regulation, custom, or usage, of any State...subjects, or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured.

42 U.S.C.§ 1983

To state a claim under Section 1983, a plaintiff must allege two elements: (1) the defendant acted under color of state law; and (2) as a result of the defendant's actions, the plaintiff suffered a deprivation of her rights or privileges as secured by the Constitution of the United States. See Lugar v. Edmondson Oil Co., 457 U.S. 922, 102 S. Ct. 2744 (1982); Annis v. County of Westchester, 136 F.3d 239, 245 (2d Cir. 1998).

When bringing a Section 1983 action against a municipality, as is the case here, a plaintiff is required to plead three elements: "'(1) an official policy or custom that (2) causes the plaintiff to be subjected to (3) a denial of a constitutional right.'" Zahra v. Sout-hold, 48 F.3d 674, 685 (2d Cir. 1995)(quoting Batista v. Rodriquez, 702 F.2d 393, 397 (2d Cir. 1983)); see also Mondell v. Dep't of Social Services., 436 U.S. 658, 690-91, 98 S. Ct. 2018, 56 L. Ed.

2d 611 (1977). "Local governing bodies...may be sued for constitutional deprivation visited pursuant to governmental "custom" even though such a custom has not received formal approval through the body's official decision-making channels." Mondell, 436 U.S. at 690-91 (citations omitted).

The applicable statute of limitations for a Section 1983 action is governed by "the law of the state in which the cause of action arose." Wallace v. Kato, 549 U.S. 384, 387, 127 S. Ct. 1091, 1094, 166 L. Ed. 2d 973 (2007). In New York, the general statute of limitations for personal injury claims is three years, See N.Y. C.P.L.R. § 214(5)

As is readily apparent, Plaintiff's Section 1983 claims that are based on conduct alleged to have occurred in 1987, 1989, 1991 and 1999 are well beyond the three-year statute of limitations and are thus time-barred. The conduct alleged to have occurred after June 29, 2007, while timely asserted, fails to state a claim upon which relief may be granted. There are simply no allegations during this time period from which the Court could reasonably find that, as a result of the Defendant's actions, the Plaintiff suffered a deprivation of her rights or privileges as secured by the Constitution of the United States. Nor has Plaintiff alleged any facts supporting her allegation that the Defendants' conduct was taken pursuant to an official policy or custom. Accordingly, the Court finds that the Plaintiff's claims are not plausible and thus are sua sponte dismissed.

VI. Leave To Amend

Rule 15(a) of the Federal Rules of Civil Procedure states that a party shall be given leave to amend the complaint "when justice so requires." Fed. R. Civ. P. 15(a)(2). A district court "should not dismiss without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated." Branum v. Clark, 927 F.2d Cir. 1991); see also Cortec Indus., Inc, v. Sum Holding L.P., 947 F.2d 42, 48 (2d Cir. 1991). Here the Court finds that leave to amend is not war-ranted because Plaintiff's complaint, liberally read, fails to state any cognizable claim against the Defendant. Accordingly, leave to amend is denied, and Plaintiff's complaint is dismissed with prejudice.

VII. The All Writs Act

As noted above, Plaintiff is no stranger to this Court. Since 2000, plaintiff has filed six pro se in forma pauperis cases,[4] four of which were sua sponte dismissed by the court[5] and three of which asserted claims against the County of Suffolk.[6] The fourth case brought by plaintiff against the County of Suffolk, Colombo v. Suffolk County Department of Social Services, 00-CV-4618(ADS), concluded with a judgment entered against plaintiff and in favor of the County of Suffolk on all claims following a full jury trial.

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[4]Colombo v. Hope for Youth, Inc., 00-CV-2377; Colombo v. Suffolk County Department of Social Services, et al., 00-CV-4618; Colombo v. U.S. Postal Service and the County of Suffolk, 03-CV-5404; and People of the State of New York v. Colombo, 10-CV-0686.

[5]Colombo v. County of Suffolk, 03-5404; Colombo v. U.S. Postal Service and the County of Suffolk, 02-0061, Colombo v. Schwartz, 02-0062; People of the State of New York v. Colombo, 10-CV-686.

[6]Colombo v. U.S. Postal Service and the County of Suffolk, 02-CV-0061(JM); Colombo v. County of Suffolk, 03-CV-5404(ADS); and Colombo v. County of Suffolk, 10-CV-1134.

under Rule 106, stating: "{t}his was not erroneous, Under the All-Writs Act, a federal district court "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law" 28 U.S.C. § 1651(a). The All-Writs Act "grants district courts the power, under certain circum-stances, to enjoin parties from filing further lawsuits." MLE Realty Assoc. v. Handler, 192 F. 3d 259, 261 (2d Cir. 1999).

Those circumstances include cases where a litigant engages in the filing of repetitive and frivolous suits. See Malley v. New York City Board of Educ., 112 F.3d 69 (2d Cir. 1997)(per curiam) (filing injunctions may issue if numerous complaints filed are based on the same events); In re Martin-Trigona, 9 F. 3d 226, 227-28(2d Cir. 1993). Such an injunction, while protecting the courts and parties from frivolous litigation, should be narrowly tailored so as to preserve the right of access to the courts. In addition, the Court must provide plaintiff with notice and opportunity to be heard before imposing a filing injunction. Moates v. Barkley, 147 F.3d 207, 208 (2d Cir. 1998) (per curiam); MLE Realty, 192 F. 3d at 261.

Plaintiff's instant action, together with docket number 10-686, make clear that she (sic) Plaintiff will file a new action seeking redress for the 1989 arrest. Plaintiff's continued filing of in forma pauperis complaints relating to the same incident that occurred over twenty years (20) constitutes an abuse of judicial process. The Court has an "obligation to protect the public and the efficient administration of justice from individuals who have a history of litigation entailing vexation, harassment and needless expense to other parties and an unnecessary burden on the courts and their supporting personnel." Lau v. Meddaugh, 229 F. 3d 121, 123 (2d Cir. 2000).

The Court is especially cognizant of Plaintiff's pro se status and has considered her submissions in as positive light as possible. Nonetheless, the Court warns Plaintiff that similar, further complaints will not be tolerated. If Plaintiff persists in this course of action, the Court will require that Plaintiff first seek leave of Court before submitting such filings. In addition, the Court may direct the Clerk of the Court to return to Plaintiff, without filing, any such action that is received without a clear application seeking leave to file, and the Court may sua sponte dismiss the case with prejudice.

III. Conclusion

For the foregoing reasons, Plaintiff's application to proceed in forma pauperis is granted and the Complaint is sua sponte dismissed with prejudice. The Clerk of the Court is directed to close this case. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED.

/S/

Sandra J. Feuerstein
United States District Judge

Dated: May 25, 2010
Central Islip, NY

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 12th day of August, two thousand and ten,

Present: Reena Raggi
Richard C. Wesley
Gerard E. Lynch
Circuit Judges,

Rose Colombo,
Plaintiff-Appellant,
v.

County of Suffolk,
Defendant-Appellee.

ORDER
Docket No.:
10-2589-CV

Appellant, *prose,* moves for *in forma pauperis* and appointment of counsel. Upon due consideration, it is hereby ORDERED that The motion is DENIED and the appeal is DISMISSED because it Lacks an arguable basis in law for fact. *See* 28 U.S.C. § 1915(e); Neizke v. Williams,, 490 U.S. 319, 325 (1989) defining when an action lacks an arguable basis in law or fact).

For the Court:
Catherine O'Hagan Wolfe.
Clerk
Yana Segal, Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 23rd day of September, two thousand and ten,

Present: Reena Raggi
Richard C. Wesley
Gerard E. Lynch
Circuit Judges,

Rose Colombo,
Plaintiff-Appellant,
v.
County of Suffolk,
Defendant-Appellee.

ORDER
Docket No.:
10-2589-CV

Rose Colombo filed a motion for reconsideration and the panel that determined the motion has considered the request.

IT IS HEREBY ORDERED that the motion is denied.

For the Court:
Catherine O'Hagan Wolfe.
Clerk

Yana Segal, Deputy Clerk